BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of AT&T Communications of the Southwest, Inc.'s Petition for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Southwestern Bell Telephone Company.	)	Case No. TO-97-40
In the Matter of the Petition of MCI Telecommunications Corporation and Its Affiliates, Including MCImetro Access Transmission Services, Inc., for Arbitration and Mediation Under the Federal Telecommunications Act of 1996 of Unresolved Interconnection Issues With Southwestern Bell Telephone Company.	)	Case No. TO-97-67

APPEARANCES

Paul S. DeFord, and Charles W. McKee, Lathrop & Gage, L.C., 2345 Grand Boulevard, Kansas City, Missouri 64108,

and

N.M. Norton, Jr. and J. Mark Davis, Wright, Lindsey & Jennings, 2200 Worthen Bank Building, 200 West Capitol Avenue, Little Rock, Arkansas 72201-3699,

and

Gloria Salinas, Attorney, AT&T Communications of the Southwest, Inc., 907 South Congress, Austin, Texas 78704, for AT&T Communications of the Southwest, Inc.

Diana J. Harter, Attorney, Michael Cavell, Attorney, Leo J. Bub, Attorney, and Paul G. Lane, General Attorney (Missouri), Southwestern Bell Telephone Company, 100 North Tucker Boulevard, Room 630, St. Louis, Missouri 63101-1976, for Southwestern Bell Telephone Company.

Carl J. Lumley and Leland B. Curtis, Curtis, Oetting, Heinz, Garrett & Soule, P.C., 130 South Bemiston, Suite 200, Clayton, Missouri 63105,

and

Stephen F. Morris, Attorney, MCI Telecommunications Corporation, 701 Brazos, Suite 600, Austin, Texas 78701, for MCI Telecommunications Corporation and its affiliates.

Michael F. Dandino, Senior Public Counsel, Office of the Public Counsel, Post Office Box 7800, Jefferson City, Missouri 65102, for the Office of the Public Counsel and the public.

ADMINISTRATIVE LAW JUDGE: **Dale Hardy Roberts, Chief.**

ARBITRATION ORDER

TABLE OF CONTENTS:

(Table of Contents, cont'd)

(Table of Contents, cont'd)

I. Procedural History

This case represents the consolidation of two separate cases in which the applicants filed Petitions For Arbitration pursuant to Section 252(b) of the Telecommunications Act of 1996 (the Act) to establish an interconnection agreement with Southwestern Bell Telephone Company (SWBT). The lead case, Case No. TO-97-40, was filed by AT&T Communications of the Southwest, Inc. (AT&T) on July 29, 1996. The companion case, Case No. TO-97-67, was filed on August 16 by MCI Telecommunications Corporation (MCI). On that same date MCI and AT&T filed a joint motion in Case No. TO-97-67 and Case No. TO-97-40, respectively, to consolidate these two cases. As a result, on September 17 the Commission issued an order granting consolidation and adjusting the procedural schedule, and at that time the Commission designated Case No. TO-97-40 as the lead case.

SWBT filed its response to the Petition For Arbitration in Case No. TO-97-40 on August 23, and in Case No. TO-97-67 on September 10. Pursuant to § 386.710, R.S.Mo. (1995), and the Arbitration procedures established by the Commission, the Office of the Public Counsel (OPC) may represent the interests of the public in any proceeding before the Commission. On some issues OPC's position may not be listed as it chose not to take a specific position on numerous issues herein. An Issues

Memorandum was ordered to be filed with all parties participating in the preparation of that document. On October 4, an Issues Memorandum was filed on behalf of SWBT and on October 7, a revised Issues Memorandum was filed on behalf of OPC, MCI, AT&T and SWBT. The Issues Memorandum was subsequently updated by substitution of a more complete Issues Memorandum on the first day of the hearing.

On October 8, 1996, the Commission convened the formal arbitration proceedings in this matter, and these proceedings continued through October 17, 1996. Thereafter, initial briefs were filed by all parties on November 8, 1996, and reply briefs were filed by all parties on November 15, 1996. In addition, numerous late-filed exhibits were filed by various parties. The Commission had already made clear on the record that those exhibits which were ordered, during the arbitration, to be late-filed should be provided by copy to all parties to this hearing. The parties were advised that if no objection was raised to the late-filed exhibits, they would be admitted. The contested issues presented for arbitration were too numerous to be set out here, but may be ascertained by their designation through the Table Of Contents to this Arbitration Order.

II. Findings of Fact

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact.

1. Appropriate Costing Model

Which costing model presented should the Commission use to develop prices? Neither the SWBT purported Total Element Long Run Incrmental Cost

(TELRIC) cost studies nor the Hatfield Model as supported by AT&T and MCI is adequate for establishing permanent prices.

The Hatfield Cost Model is extremely new. The version at issue was first introduced in 1996. This cost model, like other proxy models, is a work in progress, and has not been thoroughly tested in the market. In this proceeding the Commission finds that the Hatfield Model cannot be used to set rates for all unbundled elements.

The Hatfield Model requires at least two major revisions to be capable of being used in a TELRIC study with confidence. First, it must be reconfigured to cost at the exchange level instead of at the wire center level. Second, it must be upgraded to include non-recurring charges. Considered as a whole and pending at least these two modifications, the Hatfield Model has not yet reached a stage of development to be sufficiently accurate and reliable. SWBT presented many studies of what it characterized as TELRIC costs. However, there were a number of problems noted. These included costs which seemed to be based on SWBT actual costs rather than "efficient" firm costs, and inconsistent fill factors when compared to depreciation rates.

The Commission finds that neither the Hatfield Model as supported by AT&T and MCI nor the SWBT purported TELRIC studies are adequate to set permanent prices. As an interim measure, the Commission will direct the use of the SWBT studies adjusted for certain identifiable factors. By means of this process the Commission will establish interim rates.

2. Capital Costs

What cost of capital should be included in cost studies? SWBT proposes that the cost of capital be calculated as in past Missouri PSC proceedings. This weighted average cost of capital (WACC) proposal would

result in a calculated rate of 10.69 percent. As an alternative, SWBT proposed the FCC higher default be adopted to reflect the future unknowns of equity financing (risk premium). The default FCC rate would be 11.25 percent.

AT&T proposed a range from 9.10 percent to 10.31 percent, with a midpoint of 9.71 percent recommended as most appropriate to use. In the combined AT&T and MCI Initial Brief 10.01 percent is advocated and this is the number used by AT&T and MCI in their Hatfield Model.

The Commission finds the debt to equity ratio SWBT uses does not reflect the most appropriate debt to equity ratio for purposes of this case. Actual Southwestern Bell Corporation (SBC) (SWBT's parent corporation) percentage of debt has not been as low as 42 percent since 1989. Maintaining the same return for both equity and debt as proposed by SWBT, the following calculation of cost of capital using SBC's 1995 SEC Report 10K will be used.

SWBT Corrected Cost of Capital Calculation

	Percent	x	Return	=	Weighted Cost
% Equity	45.97%	x	13.0%	=	5.98%
% Debt	54.03%	x	7.5%	=	4.05%
					10.03%

3. Unbundled Network Elements

What unbundled network element(s) (UNE) should SWBT be required to make available? The FCC has ordered incumbent local exchange companies (ILECs) to provide, at a minimum, the following UNEs: (1) local loops; (2) access to the network interface device (NID); (3) local and tandem switching capability; (4) interoffice transmission facilities; (5) signaling and call-related databases; (6) operations support systems

functions; and (7) operator services and directory assistance facilities. SWBT's proposed list of UNEs meets the FCC's minimum list. Additionally, SWBT has proposed to offer the loop cross-connect as a separate UNE. The issue in dispute appears to be (1) AT&T and MCI's request for sub-loop unbundling, direct access to the NID and access to fiber which has no electronic devices attached (dark fiber) as a UNE, all of which SWBT is not proposing to offer, and (2) MCI and AT&T's objection to SWBT's proposal that the loop cross-connect be a separate UNE.

MCI and AT&T support SWBT's proposed list of UNEs, with the exception of the cross-connect being a separate UNE. Further, AT&T and MCI contend that SWBT should offer dark fiber, direct access to the NID and sub-loop unbundling.

The Commission finds that SWBT should make available the following UNEs without restriction: (1) local loops; (2) loop cross-connect; (3) access to the NID; (4) local and tandem switching capability; (5) interoffice transmission facilities; (6) signaling and call related databases; (7) operations support systems functions; and (8) operator services and directory assistance facilities. With regard to Local Service Provider (LSP) testing and monitoring of unbundled elements, there may be disputes which arise concerning test report time lines, procedures, etc.

Therefore, it is appropriate in instances where an LSP uses its own testing and monitoring services to direct SWBT to treat the LSP test reports as its own for purposes of procedures and the time intervals for clearing trouble reports. To fulfill the non-discriminatory principle of the Act, SWBT shall not treat external trouble reports any differently than it treats its own internal trouble reports.

4. Cross-Connect

The two issues which must be resolved are: (1) whether there should be a separate UNE for the cross-connect and (2) whether SWBT's proposed cross-connect design should include testing equipment. SWBT contends a separate cross-connect element is required. Absent a separate cross-connect element, SWBT maintains that the LSPs would have no way of connecting the LSP facilities with SWBT's switch. MCI and AT&T acknowledge there are different types of cross-connects with different costs, however they maintain the costs should be recovered on an average basis as part of the unbundled element being provided, and not as a separate unbundled element.

The Commission finds that SWBT should offer the cross-connect as a separate unbundled element, available with and without testing equipment. The Commission will follow its decision in ***In re MFS Arbitration Petition with SWBT***, Case No. TO-97-23, which established different prices for different types of cross-connects, thus effectively designating the cross-connect as a UNE.

5. Sub-Loop Unbundling

Should SWBT be required to offer sub-loop unbundling? The availability of an unbundled sub-loop element to LSPs produces economical options for the LSP.

The Commission finds SWBT should provide access to the following sub-loop elements: (1) loop distribution plant; (2) loop concentrator/multiplexer; and (3) loop feeder. Rates for the aforesaid sub-loop elements should be developed based on the TELRIC costing principles which are standard in this proceeding, and submitted to the Commission for approval. Because no interim rates exist for sub-loop

unbundling and an interim rate of zero would not be appropriate since there are significant costs involved SWBT should submit cost studies to the Commission within 45 days of the issue date of this order.

6. Dark Fiber

Should SWBT be required to offer dark fiber at this time?

SWBT states it should not be required to give up fiber optic cable it forecasts it will need within a five year period, and a directive to relinquish all dark fibers may result in the need for SWBT to construct new facilities. However, an increase in the traffic carried by an LSP would most probably mean a decrease in the amount of traffic carried by SWBT. Moreover, ongoing improvements to the electronics attached to fiber are increasing the capacity of that fiber.

The Commission finds that SWBT should offer dark fiber in the dedicated interoffice transport segment of the network as an unbundled element under the following conditions: SWBT must offer its dark fiber to LSPs who have collocation space in a SWBT tandem or end office, but may offer it pursuant to agreements that would permit revocation of an LSP's right to use the dark fiber upon twelve months' notice by SWBT. To exercise its right of revocation, SWBT must demonstrate that the subject dark fiber is needed to meet SWBT's bandwidth requirements, or the bandwidth requirement of another LSP. An LSP may not, in a twenty-four month period, lease more than 25 percent of SWBT's excess dark fiber capacity in a particular dedicated interoffice transport segment.

SWBT shall not be required to make available for lease more than 25 percent of its dark fiber capacity in a particular feeder segment. The feeder available for lease must be allocated among the requesting CLECs on a first-come, first-served, basis, and distributed in a competitively

neutral manner. If SWBT can demonstrate within a twelve month period after the date of a dark fiber lease that the LSP is using the leased dark fiber capacity at a level of transmission less than the optical carrier OC-12 (622.08 million bits per second), SWBT may revoke the lease agreement with the LSP and provide the LSP a reasonable and sufficient alternative means of transporting the traffic.

SWBT shall not be required to make available for lease more than 25 percent of its dark fiber capacity in a particular dedicated interoffice transport segment. The fiber available for lease must be allocated among the requesting CLECs on a first-come, first-served, basis, and distributed in a competitively neutral manner. If SWBT can demonstrate within a twelve month period after the date of a dark fiber lease that the LSP is using the leased dark fiber capacity at a level of transmission less than the optical carrier OC-12 (622.08 million bits per second), SWBT may revoke the lease agreement with the LSP and provide the LSP a reasonable and sufficient alternative means of transporting the traffic.

The parties shall also submit for approval a procedure for exchanging information on the availability of dark fiber for lease, and on the usage of leased dark fiber.

The Commission will direct SWBT to unbundle dark fiber in the feeder segment of its loops as unbundled network elements under the following conditions: SWBT must offer its dark fiber to LSPs, but may offer it pursuant to agreements that would permit revocation of an LSPs right to use the dark fiber upon twelve months' notice by SWBT. To exercise its right of revocation, SWBT must demonstrate that the subject dark fiber is needed to meet SWBT's bandwidth requirements or the bandwidth requirements of another LSP. An LSP may not, in a twenty-four month period, lease more

than 25 percent of SWBT's excess dark fiber capacity in a particular feeder segment. If SWBT can demonstrate within a twelve month period after the date of a dark fiber lease that the LSP is using the leased dark fiber capacity at a level of transmission at a level less than OC-12 (622.08 Mbps), SWBT may revoke the agreement with an LSP and provide the LSP with a reasonable and sufficient alternative means of transporting traffic.

Interim Rates for unbundled dark fiber are included in the rate sheet which is attached to this order.

7. Network Interface Device

Should the NID be unbundled beyond what the FCC required?

Direct NID connection where spare capacity exists is an economic alternative to an LSP installing an additional NID on the customer's premises. Issues regarding aesthetics are also resolved as multiple NIDs would be attached only when necessary.

The Commission finds that it should direct the following NID interconnection: (1) for single-unit and small business locations, LSPs should be allowed direct connections to SWBT's NID where spare slots are available; (2) where spare slots are not available on single-unit and small business location SWBT NIDs, MCI and AT&T propose to make a NID to NID interconnection as permitted by the FCC and offered by SWBT; (3) for large businesses and apartment buildings where the customer's inside wiring is easily accessible outside SWBT's NID, AT&T and MCI should provide their own NID and connect directly to the customer's inside wiring; and (4) for businesses and apartment locations where the customer's wiring is not accessible outside of the SWBT NID, SWBT should rearrange its NID to allow LSP access to the inside wiring.

Rates for all types of NID interconnection should be based on TELRIC costing principles standard in this proceeding. SWBT shall submit cost studies to the Commission within 45 days.

8. Restrictions on LSP Use of Unbundled Network Elements (UNEs)

Should there be any limitations or restrictions on an LSP's use of UNEs? AT&T and MCI both state they do not intend to utilize facilities for the provision of services in a manner which does not meet industry standards. AT&T and MCI will abide by existing standards, including standards regarding interference, so restrictions on LSP use of UNEs would not be necessary.

The Commission finds that SWBT should not be allowed to impose unnecessary restrictions or limitations on an LSP's use of UNEs. Specifically, there shall be no restrictions or limitations on LSP use of UNEs. Allowing SWBT to impose certain restrictions and limitations on the use of UNEs could be utilized by SWBT as a barrier to competition.

9. Bona Fide Request Process for Additional Unbundled Network Elements

Should there be a bona fide request process for additional UNEs? The parties do not dispute such a necessity. The dispute lies in the time line under which the process should take place. If MCI and AT&T's proposal were approved, there could be occasions when the Commission would have as few as 20 days to rule on the request from receipt of the parties' positions. Such a short period of time would not be sufficient for the Commission to make an informed ruling.

Both AT&T and MCI support the following proposal: (1) SWBT has ten days to accept an LSP's request for further unbundling; (2) if SWBT does not accept the request within ten days, the requesting LSP has ten days in which to file a petition with the Commission seeking its

determination that SWBT be required to provide the unbundled element; (3) SWBT must respond within ten days of the petition being filed and demonstrate that it is technically infeasible to provide the UNE, or that such a provision might violate network integrity; and (4) the Commission would then rule on the petition within 20 days of SWBT's response, and in no case more than 30 days after the filing of the requesting LSP's petition.

The Commission finds that the parties should use SWBT's proposed process, incorporating the following revision: SWBT has 30 days in which to accept or reject an LSP's request for further unbundling. If SWBT accepts the request, it shall as soon as possible, but not more than 60 days after receipt of the request, provide to the requesting party a quote specifying, at a minimum, a description of each network element, its availability, the applicable rates and installation intervals. If SWBT does not accept the request within 30 days, the requesting LSP has 20 days in which to file a petition with the Commission, seeking a determination that SWBT be required to provide the unbundled element. SWBT must respond within 20 days of the filing of the petition and demonstrate why it is technically infeasible to provide the UNE or why such provision violates network integrity. The Commission will then rule on the petition within 30 days of SWBT's response, and in no case more than 90 days after the filing of the requesting LSP's petition.

In addition, both parties shall report to the Commission six months prior to the expiration of the interconnection agreement on the effectiveness and efficiency of the modified request process; parties are encouraged to provide alternatives to the 90-day process in their reports.

At that time, the Commission may evaluate the process and determine if another method should be utilized.

10. Physical Interconnection and Collocation

How should the parties interconnect their networks? SWBT is willing to interconnect with an LSP in each exchange area in which it chooses to offer local exchange service at: (1) each SWBT access tandem, and (2) either each SWBT local tandem or each SWBT end office subtending that local tandem. It is the position of AT&T and MCI that they should be allowed to interconnect at as few as one point per LATA. OPC contends that Interconnection must be made available as directed by the FCC's Order.

The Commission finds that SWBT should provide interconnection at the following points: (1) the line-side of the local switch; (2) the trunk-side of the local switch; (3) the trunk interconnection points for a tandem switch; (4) central office cross-connect points; (5) out-of-band signaling transfer points; and (6) the points of access to unbundled elements. Additionally, each of the recommendations for the disputed interconnection sub-issues shall be decided as set out below.

(1) The LSP may designate, at its option, a minimum of one point of interconnection within a single SWBT exchange where SWBT facilities are available, or multiple points of interconnection within the exchange, for all traffic within that exchange. If the LSP desires a single point of interconnection within a LATA, SWBT shall provide dedicated or common transport to any other exchange within a LATA requested by the LSP. Alternatively, the LSP may self-provision or use a third party's facilities.

(a) For LSP originating traffic (LSP to SWBT), interconnection shall be as follows. IntraLATA toll traffic may be combined with local

traffic on the same trunk group when the LSP routes traffic to either a SWBT access tandem which serves as a combined local and toll tandem or directly to a SWBT end office. When mutually agreed upon traffic data exchange methods are implemented, direct trunk groups to SWBT end offices will be provisioned as two-way and used as two-way. When there are separate SWBT access and local tandems in an exchange, a separate intraLATA toll trunk group will be provided to the access tandem. When there are multiple SWBT combined local and toll tandems in an exchange area, separate trunk groups will be established to each tandem. Such trunk groups may carry both local and intraLATA toll traffic. Trunk groups to the access or local tandems will be provisioned as two-way and used as one-way until such time as it becomes technically feasible to use two-way trunks in SWBT tandems. Trunks will utilize SS7 protocol signaling when such capabilities exist within the SWBT network. Multi-frequency (MF) signaling will be utilized in cases where SWBT switching platforms do not support SS7. Trunking to a SWBT access tandem will provide the LSP access to the SWBT end offices and NXXs which subtend that tandem and to other service providers which are connected to SWBT. Trunking to a SWBT end office will provide the LSP access only to those NXXs served by that individual end office to which the LSP interconnects.

(b) For LSP terminating traffic (SWBT to LSP), interconnection shall be as follows. Where SWBT has a combined local and access tandem, SWBT will combine the local and the intraLATA toll traffic over a single trunk group to MCI. The trunk groups will be provisioned as two-way and used as one-way until such time as it becomes technically feasible to use two-way trunks. When SWBT has separate access and local tandems in an exchange area, a separate trunk group will be established from each tandem

to the LSP. Direct trunk groups between the LSP and SWBT end offices will be provisioned as two-way and used as two-way. Trunks will utilize SS7 signaling protocols unless the SWBT switching platform only supports MF signaling. To facilitate the provision of two-way trunking, an LSP should agree to supply SWBT the necessary information regarding the manner in which the LSP transmits local traffic and local transit traffic on Feature Group D type trunks to and from a tandem switch on two-way trunks in other incumbent local exchange companies' areas. Within 30 days from the receipt of the above information, SWBT shall inform the LSP if such modification can be made within three months and at what cost, or explain in detail in writing why SWBT cannot do so. If the latter explanation is not satisfactory to the LSP, the issue shall be presented to the Commission for a determination of the technical feasibility of providing such two-way trunking.

(2) LSPs should be allowed to designate any technically feasible point of interconnection, including: mid-span meets; line-side of local switch; trunk-side of local switch; trunk interconnection points for tandem switch; and the points of access to unbundled elements.

SWBT shall provide collocation at controlled environmental vaults (CEVs), huts or cabinets. Physical collocation must be provided on a first come, first served basis, provided there is space available for collocation and for reasonable security arrangements. Where no space is available, SWBT must provide virtual collocation. SWBT is required to permit interconnection of an LSP's copper and coaxial cable only where the LSP can demonstrate that interconnection of its copper/coaxial facilities would not impair SWBT's ability to serve its own customers or subsequent interconnectors.

(3) SWBT shall provide collocation space to LSPs only for equipment used for purposes of interconnection or access to unbundled network elements. Equipment used for interconnection and access to unbundled network elements includes, but is not limited to (1) transmission equipment such as optical terminating equipment and multiplexers and (2) equipment being collocated to terminate basic transmission facilities. Additionally, where space permits, SWBT shall allow LSPs to locate remote switching module equipment (RSMs) in space dedicated to the LSP within SWBT's central office premises, for the purpose of accessing unbundled network elements or for network interconnection.

(4) In physical collocation of the LSP's equipment within SWBT's space, SWBT shall provide the LSP with an estimate of the cost of construction and date of completion for such physical collocation within 35 days from receipt of the LSP's request for physical collocation. The LSP shall have 35 days from receipt of SWBT's estimate within which to accept or reject such estimate. If the LSP accepts SWBT's cost estimate, and unless otherwise mutually agreed to by the parties in writing, the provision of such physical collocation shall be completed in not more than three months from the date of the LSP's acceptance of SWBT's cost estimate for such physical collocation. If a completion date outside the three-month period is not agreed to by the parties, the issue may be presented to the Commission for determination.

Virtual collocation shall be completed in no more than two months from the date of the request by the LSP for such virtual collocation, subject to the availability of equipment selected by the LSP. In such case SWBT will inform the LSP of the equipment delivery date. If the date is

not satisfactory to the LSP, then the issue can be presented to the Commission for decision.

(5) LSPs may test their interconnections rather than have SWBT perform that function; however, under this arrangement SWBT still must treat the test reports in a nondiscriminatory fashion. If an LSP's testing produces incorrect information which results in SWBT dispatching a repair crew unnecessarily, then the LSP must pay for the cost of the unnecessary trip.

11. Interim Number Portability

This issue is more appropriately addressed by its three sub-issues: **Sub-Issue (11A)** - What types of number portability should be provided by SWBT? **Sub-Issue (11B)** - Should AT&T and MCI be entitled to terminating access revenues for calls terminating to their customers utilizing ported numbers? **Sub-Issue (11C)** - Should SWBT accept billing for charges resulting from ported third number and collect calls, and maintain the Line Information Database (LIDB) record for ported numbers?

Sub-Issue (11A)

With regard to NXX migration, there appears to be no dispute; MCI and AT&T seek NXX migration and SWBT has proposed to offer it. Because the FCC will address permanent number portability in a later docket; there appears to be no need to address this issue in this proceeding.

The Commission finds that directing SWBT to provide MCI and AT&T's requested route index solutions, in addition to SWBT's proposed RCF, DID and NXX migration is an appropriate solution. AT&T and MCI should pay for the routing solutions, the cost for which should be based on TELRIC costing principles. This solution is appropriate because DN-RI and RI-PH have some definite advantages over DID and RCF. Therefore, if the LSPs pay for the

route index solutions, SWBT should make them available. SWBT should provide the route index INP solutions and submit TELRIC cost studies to the Commission for approval.

Sub-Issue (11B)

Should AT&T and MCI be entitled to terminating access revenues for calls terminating to their customers utilizing ported numbers?

The FCC First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 95-116 (the FCC Order) at 114 states: "Therefore, we direct forwarding carriers and terminating carriers to assess on IXCs charges for terminating access through meet-point billing arrangements." AT&T and MCI support a meet-point billing arrangement, which would allow SWBT to retain any terminating local transport charges. The remaining terminating switched access revenues, including the carrier common line charge revenues, would belong to the LSP. It is AT&T and MCI's position that SWBT should retain only those terminating transport access revenues associated with carriage on SWBT trunks for the ported numbers. It is unclear from SWBT's initial and reply briefs what their position on this issue is, as they have not addressed it.

The Commission finds that SWBT shall retain the local transport revenues for traffic that travels over SWBT facilities from the IXC to the SWBT switch. Revenues resulting from charges for local switching would go to the LSP, since the traffic ultimately is switched at their end office and sent down their local loop (or a local loop purchased from unbundled elements). Finally, a meet-point billing arrangement to recover costs incurred transporting traffic between SWBT and the LSP is an appropriate method to recover those costs.

Sub-Issue (11C)

Should SWBT accept billing for charges resulting from ported third number and collect calls, and maintain the Line Information Database (LIDB) record for ported numbers?

It appears the parties have settled this issue. AT&T and MCI have agreed that AT&T and MCI will establish their own contracts for third number and collect calls, thus negating any disputes over billing.

12. Interim Number Portability (INP) Cost Recovery

How should the costs of INP be calculated, allocated and paid? The costs of INP are unclear, but not believed to be great.

SWBT prefers to bill LSPs direct and to establish "Elemental Access Lines" (EAL) to allocate costs (local service, intraLATA toll and interLATA toll represent the elements). SWBT contends that all telecommunications providers, whether actually using INP or not, would pay the charge and all carriers should begin keeping track of costs.

OPC does not present any particular proposal, but objects to SWBT methods of cost recovery, characterizing it as a "tax" on the public resulting from competition.

MCI proposes all carriers bear their own cost but believes no mechanism for INP cost recovery need be developed. AT&T believes that relevant carriers, both incumbent and new local providers be assessed for cost recovery. However, it believes the Commission should not order costs be tracked for a later retroactive billing.

The FCC order establishing a cost recovery mechanism is currently under appeal. In testimony, SWBT, AT&T and MCI witnesses agreed that it would be appropriate to implement INP without establishing charges and to revisit the issue in the future.

The Commission finds, to the extent this issue was not resolved by the disposition of issue #11, that all parties should keep track of what they consider INP costs and the issue will be revisited when the issues are clearer, especially after the FCC clarifies its requirements on cost recovery.

13. White Page Information

How should SWBT manage white page Directory Information and Directory Assistance Information?

SWBT wants the LSP to pay for white page listings for all but resale customers, believing such charges should be geographically deaveraged. SWBT also insists they own the final listing and can resell it with no revenue sharing to the other LSPs. SWBT wants a reciprocal agreement with LSPs not using SWBT's directory assistance to pay each other for listing its customers in each others directory assistance data base.

AT&T and MCI contend listing cost in the white pages is covered by payments for publishing and distribution and exchange of information is mutually beneficial, and that charging would represent a barrier to entry. Also, AT&T and MCI believe the customer listing should be the property of the chosen provider and any revenue from selling listing should be shared. Likewise, they are opposed to the "licensing fees" for exchange of listing information. Finally, MCI recommends that the proposed geographic deaveraged rates not be accepted until a specific plan is proposed.

A common telephone book is preferable with each party contributing the names of its customers. Any value from resale of customer names should be shared equitably among the carriers (based on the number of names from each carrier). Alternatively, the sale of the lists by the incumbent

should exclude the competitor's customers so that a competitive carrier can sell lists of its own customer names.

The Commission finds that all parties should supply their customer information to each other at no charge. SWBT should list all customers at no additional charge. Any revenue generated by selling customer lists of the other company should be shared equitably or the customer names will be excluded from such lists.

14. Numbering Issue - Code Relief

What practices and procedures must SWBT use relating to Number Administrator and in area code relief activities? The North American Numbering Council has been established by the FCC to move all numbering assignments NPA as well as NXX) to a neutral third party. Prior to the completion of that effort SWBT is willing to continue providing NXX assignment. NPA assignment is currently done by Bellcore.

SWBT agreed at the hearing to provide real time access to number assignment. The Commission finds no disagreement on this issue.

15. Procedure for Access to SWBT Poles, Conduits and Rights-of-Way

What procedure should be used to apply for access to SWBT's poles, conduits and rights-of-way?

Although SWBT's proposed method for access to poles, conduits and rights of way may appear burdensome, SWBT contends it is necessary. AT&T and MCI have not proposed an alternative procedure.

The Commission finds that SWBT should be allowed to use its proposed 15-step method for administrative approval of LSP requests for pole attachments and conduit space. However, both parties should report to the Commission six months prior to the expiration of the interconnection agreement on the effectiveness and efficiency of SWBT's methods. The

parties are encouraged to provide alternatives to the 15-step approval process within their reports. At that time, the Commission will determine if another method should be utilized.

16. Access to poles, conduits and rights-of way

What access to SWBT's poles, conduits and rights-of-way should be allowed? This dispute requires a ruling in the following areas: (1) control of assignment of pole and conduit space; (2) what degree of access should be allowed (i.e., unfettered access); and (3) LSP compensation to SWBT for observation of LSP work.

(1) Control of Assignment of Pole and Conduit Space:

MCI and AT&T believe that in order to receive nondiscriminatory treatment, LSPs should be given the opportunity to select their own spaces on poles and in conduits consistent with the network engineering guidelines SWBT applies to itself. If SWBT places an LSP's facilities in a less desirable pole position, the LSP could experience higher costs and SWBT keeping the more desirable positions for itself. Currently there are existing technical standards and procedures to which SWBT currently adheres with regard to pole and conduit placement. MCI and AT&T have explained that they will comply with the same engineering and safety procedures which are imposed on SWBT.

SWBT states that it must be allowed to control assignment of duct, pole and conduit space to ensure their efficient and proper use.

The Commission finds that the Act and the Order clearly require a utility to provide access that does not favor itself over the new entrant. Nondiscriminatory access means more than requiring the ILEC to